

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

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BOBBY JAMES DERAMUS

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Plaintiff,

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v.

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2:08-CV-506-TMH  
(WO)

SHERIFF HERBIE JOHNSON, *et al.*,

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Defendants.

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**RECOMMENDATION OF THE MAGISTRATE JUDGE**

Plaintiff filed this 42 U.S.C. § 1983 action on June 27, 2008. When he filed this complaint, Plaintiff was an inmate incarcerated at the Autauga Metro Jail located in Prattville, Alabama.

On August 14, 2008 the court entered an order of procedure which instructed Plaintiff, among other things, to inform the court of any change in his address. (*Doc. No. 4.*) The order cautioned Plaintiff that failure to comply with this requirement would result in a Recommendation that this case be dismissed. (*Id.*) On November 25, 2008 the envelope containing Plaintiff's copy of an order filed November 14, 2008 was returned to the court marked as undeliverable because Plaintiff was no longer at the address he had provided to the court when he filed this action. Consequently, an order was entered on December 1, 2008 directing Plaintiff to provide the court with his present address on or before December 11, 2008. (*Doc. No. 14.*) Plaintiff was cautioned that his failure to comply with the court's

December 1 order would result in a recommendation that this case be dismissed. (*Id.*) The envelope containing Plaintiff's copy of this order was returned to the court on December 11, 2008 marked "return to sender - inmate not at this facility."

It is clear that Plaintiff is no longer incarcerated at the Autauga Metro Jail and that he has not provided this court with his current address. The undersigned, therefore, concludes that this case is due to be dismissed.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED without prejudice for Plaintiff's failures to comply with the orders of the court and to prosecute this action.

It is further

ORDERED that the parties are DIRECTED to file any objections to the said Recommendation on or before **January 29, 2009**. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which a party objects. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar the party from a *de novo* determination by the District Court of issues covered in the report and shall bar the party from attacking on appeal factual findings in the report accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5<sup>th</sup> Cir. 1982). *See Stein*

*v. Reynolds Securities, Inc.*, 667 F.2d 33 (11<sup>th</sup> Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11<sup>th</sup> Cir. 1981)(*en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done this 16<sup>th</sup> day of January, 2009.

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/s/Charles S. Coody  
CHARLES S. COODY  
UNITED STATES MAGISTRATE JUDGE